

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Robert D. Kline

(b) County of Residence of First Listed Plaintiff McClure, PA
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Robert D. Kline
2256 Fairview Road; McClure, PA 17841
(412) 246-4771

DEFENDANTS

All Fundy Capital, LLC & Todd Bullard

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
Thomas, Thomas & Hafer LLP
305 North Front Street; Harrisburg, PA 17101
(717) 441-3952

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding
- ☒ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
47 USC 227 et seq.

Brief description of cause:

Alleged violation of the Telephone Consumer Protection Act (TCPA)**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
10,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

11/08/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ John F. Yaninek

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ROBERT D. KLINE

Plaintiff,

v.

All Fundy Capital, LLC & Todd Bullard

Defendant.

Civil Action No.

**DEFENDANTS' NOTICE OF REMOVAL
OF ACTION UNDER 28 U.S.C. § 1331
(FEDERAL QUESTION JURISDICTION)**

Complaint Filed: October 9, 2018

Removed:

Trial Date: None Set

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA AND PLAINTIFF:**

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, Defendants All Fundy Capital, LLC, and Todd Bullard ("Defendants") remove the above-captioned action from the Mifflin County Court Common Pleas, to the United States District Court, Middle District of Pennsylvania. Defendants are entitled to removal pursuant to 28 U.S.C. § 1331, based on federal question jurisdiction. In support of this Notice of Removal, Defendants state as follows:

1. On October 9, 2018, a complaint was filed in Mifflin County Court Common Pleas in an action entitled *Robert D. Kline, v. All Fundy Capital, LLC & Todd Bullard*, Civil Action No. CV-978-2018 (the "State Court Action"). Plaintiff asserts claims for (1) Violation of the Telephone Consumer Protection Act (47 U.S.C. §227 *et seq.*), Trespass to Chattels, and Invasion of Privacy. A copy the pleadings in the State Court Action, including summons and complaint, are attached to this Notice as Exhibit A.

2. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because the State Court Action was filed and thereafter served on defendant All Fundy Capital, LLC on October 9, 2018. In addition, defendant Todd Bullard has not been served with the initial pleading in the State Court Action. Therefore, this notice of removal is filed within the time permitted under 28 U.S.C. § 1446(b).

3. Both defendants consent to this Notice of Removal.

4. Venue in this Court is proper pursuant to 28 U.S.C. §1441(a), which allows a defendant to remove “any civil action brought in a State court of which the district courts of the United States have original jurisdiction.” The United States District Court for the Middle District of Pennsylvania is the federal judicial district and division embracing the Mifflin County Court of Common Pleas, where the State Court Action was originally filed.

5. Pursuant to 28 U.S.C. §§ 1446(d), Defendants are filing this notice of removal with this Court, serving a copy of this notice upon Plaintiff, and filing a copy in the Mifflin County Court of Common Pleas. A copy of the written notice of the filing of this Notice of Removal is attached as Exhibit B.

Federal Question Jurisdiction

6. The Complaint names a claim for violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (“TCPA”). The claim therefore presents a federal question within the meaning of 28 U.S.C. § 1331, as it arises under the laws of the United States. *See Mims v. Arrow Financial Services, LLC*, 132 S. Ct. 740, 753 (2012) (holding federal courts have original jurisdiction to hear TCPA claims pursuant to 28 U.S.C. § 1331.)

7. Defendants reserve all of their defenses, including, without limitation, the right to amend or supplement this Notice of Removal.

WHEREFORE, Defendants pray that the State Court Action be removed from state court to this Court and that this Court assume jurisdiction over the action and determine it on the merits.

Dated this 8th day of November, 2018

THOMAS, THOMAS & HAFFER LLP

By: s/ John F. Yaninek
John F. Yaninek, Esquire
305 North Front Street, Sixth Floor
Harrisburg, PA 17101
Telephone: (717) 441-3952
Facsimile: (717) 237-7105
Email: jyaninek@tthlaw.com

*Attorneys for Defendants All Fundy Capital, LLC, and
Todd Bullard*

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November 2018, I have caused a true and correct copy of the foregoing Notice of Removal to be served on the following through certified mail:

Robert D. Kline
2256 Fairview Road
McClure, PA 17841
Plaintiff pro se

By: s/ John F. Yaninek
John F. Yaninek, Esquire